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Twenty-fifth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 448th MEETING

Held at the Palais Wilson, Geneva,
on Monday, 20 November 2000, at 10 a.m.

Chairman: Mr. BURNS

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.448/Add.1.

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GE.00-46127 (E)

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

Second periodic report of Cameroon (CAT/C/17/Add.22 and HRI/CORE/1/Add.109)

1. At the invitation of the Chairman, Mr. Ngoubeyou, Mr. Soh, Mr. Myondo Ayolo, Mr. Tchankou, Mr. Mandandi, Mr. Sontia, Mr. Mahouve, Mr. Tantoh, Ms. Cathérine Mfoula, Ms. Marie Thérèse Chantal Mfoula and Mr. Nsoga (Cameroon) took places at the Committee table.

2. The CHAIRMAN invited the head of the delegation to introduce Cameroon's second periodic report (CAT/C/17/Add.22).

3. Mr. NGOUBEYOU (Cameroon) said that the Government of Cameroon regretted the delay, due to reasons beyond its control, in submitting the information due to the Committee in 1992 and 1996. His delegation looked forward to engaging in a frank and constructive dialogue with the Committee. It would provide basic information concerning the far-reaching institutional, legislative and judicial changes that had occurred since 1996. Those developments would be examined in greater depth in Cameroon's third periodic report covering the period 1996-2000.

4. President Biya, on assuming office in November 1982, had introduced a policy of national renewal, as a result of which Cameroon had become a State based on the rule of law, in which human rights and fundamental freedoms were guaranteed by the Constitution and implemented in practice. Although Cameroonian criminal legislation had contained no definition of torture corresponding to article 1 of the Convention during the period from 1988 to 1996, comparable offences existed and were invoked in cases where torture was deemed to have occurred. Moreover, the shortcoming had been remedied by Act No. 97/009 of 10 January 1997, which amended and supplemented certain provisions of the Criminal Code. The preamble to the 1996 Constitution stated, inter alia, that no one could be subjected, under any circumstances, to torture or cruel, inhuman or degrading treatment or punishment.

5. Act No. 64/LF/13 of 26 June 1964 concerning extradition, as amended by Act No. 97/010 of 10 January 1997, provided for the prosecution of the crime of torture, whether committed by a citizen, a resident or an alien, within or outside the territory of Cameroon.

6. The "Freedom Laws" promulgated by the President on 31 December 1990 had revoked the emergency legislation previously in force, which had led to abuses, police harassment and acts of torture. Legislation to regulate the police and gendarmerie and to prevent torture and brutality had also been enacted. Strict measures had been introduced to prevent cruel, inhuman or degrading treatment during police custody and to ensure due supervision by the Office of the Public Prosecutor. Those guilty of physical or psychological ill-treatment were systematically

subjected to disciplinary action, which did not preclude criminal prosecution. Relevant statistics were provided in the report. To ensure that the prescribed measures were being effectively implemented, senior law enforcement officers undertook regular inspections of police stations and gendarmerie units. In addition to such internal supervision, the judicial authorities monitored compliance with interrogation rules and conditions of police custody.

7. In the area of prison administration, civic re-education centres had been abolished and converted into ordinary prisons. Four new prisons had been established to relieve overcrowding and legislation to promote better working conditions for prison staff had led to more humane treatment of prisoners. Order No. 080 of 10 May 1983 of the Ministry of Territorial Administration establishing a disciplinary regime for prison administration staff introduced penalties for ill-treatment of prisoners ranging from confinement to quarters to delayed promotion, without precluding criminal proceedings. Individual cases were listed in the report.

8. Decree No. 92/052 of 27 March 1992 establishing a prison regime gave every detainee the right to food, clothing, health, hygiene, wages for prison work, and cultural and recreational activities as well as the right to file complaints. Decree No. 95/232 of 6 November 1995 established a Prison Health Care Section at the Ministry of Territorial Administration. The Ministry of Justice had issued a reminder of the regulations governing pre-trial detention, supervision of police custody and medical care for detainees.

9. Cameroon generally refused to extradite persons to a country where there were substantial grounds for believing that they would run the risk of being tortured.

10. A human rights course had been included in the initial and in-service curricula of civilian, military, judicial, prison, medical and law enforcement personnel. Seminars had been organized by the National Committee on Human Rights and Freedoms for its own members and for law enforcement personnel. The Committee was an independent body with a threefold role of monitoring, counselling and public information.

11. Despite the Government's action, the situation still left a good deal to be desired owing to the paucity of public funds. However, Cameroon was doing everything in its power to uphold the prohibition of torture. It was therefore disheartening to note that certain uninformed or ill-intentioned parties focused exclusively on shortcomings and failings that occurred in cases over which the Government had no control. Cameroon did not claim in its report to be beyond reproach. It simply tried to review its compliance with the Convention during the period from 1992 to 1996.

12. On 12 October 2000, Cameroon had made the declaration under articles 20 and 21 of the Convention and it had just contributed 50,000 French francs to the United Nations Voluntary Fund for Victims of Torture.

13. Cameroon undertook to submit regular periodic reports to the Committee in future and intended to submit its third periodic report, due on 20 November 2000, within the next few months, bearing in mind the Committee's comments and recommendations on the second periodic report.

14. Mr. CAMARA (Country Rapporteur) said that the Committee, following its consideration of Cameroon's supplementary report submitted in 1991 (CAT/C/5/Add.26), had recommended that steps be taken to bring the Criminal Code into line with its obligations under the Convention and had drawn attention to problems relating to police custody, the independence of the judiciary, the supervision of prison conditions and the need to investigate all allegations of torture or ill-treatment. As the head of the delegation had acknowledged, there had been a considerable delay in submitting the second periodic report, which covered only the period from 1991 to 1996. It had thus opted for a narrow interpretation of the Committee's General guidelines on the form and contents of periodic reports (CAT/C/14/Rev.1). Otherwise, the report was in conformity with the guidelines in terms of presentation and format.

15. According to the report and the delegation's oral introduction, Cameroon's failure to include a definition of torture corresponding to article 1 of the Convention had been made good in 1997 by the enactment of new legislation. He requested the delegation to describe the new definition and indicate whether it already had the status of positive law in Cameroon. Clearly, the Committee would interpret any criminal legislation concerning the offence of torture in the light of the various constituents of that offence set forth in the definition contained in article 1 of the Convention.

16. The lengthy description in the report of the legislative, administrative and judicial measures taken to implement article 2 of the Convention demonstrated Cameroon's firm resolve to stamp out existing abuses. Unfortunately, that resolve did not yet seem to have been translated into practice. In November 1999, the Human Rights Committee, in its concluding observations on Cameroon's third periodic report (CCPR/C/79/Add.116), had expressed deep concern that a person held in administrative detention, under article 2 of Law No. 90/024 of 19 December 1990, could have his detention extended indefinitely with the authorization of the Provincial Governor or the Minister for Territorial Administration and that such person had no remedy by way of appeal or application of habeas corpus. He asked whether any action had been taken in the meantime to remedy that situation.

17. In a letter dated 16 June 2000 to the Governor of the Province of Douala, the Archbishop of Douala, Cardinal Christian Tumi, had described a number of abuses, which had also been mentioned in material supplied to the Committee by a Cameroonian non-governmental organization (NGO). In particular, they referred to an operational commando that allegedly carried out oppressive acts against the population on the pretext of combating organized crime. An article published in the Swiss newspaper Le Temps of 14 November 2000 described the case, referred to by Cardinal Tumi, of the Cameroonian national Alain Georges Bassom, who had allegedly been seriously ill-treated by the commando, and of his brother, who had allegedly been shot down in cold blood at the time of his arrest. That kind of gap between principle and practice had been found by the Committee to exist in many States parties. He would welcome any comments on the allegations he had cited, either by the delegation or in written form at a later date, and a description of the action that the Cameroonian authorities contemplated with a view to remedying the situation.

18. Turning to article 3, he congratulated Cameroon on its principled stand in refusing to extradite a Rwandan citizen, Mr. Bagosora, to Rwanda on the grounds that he would be in danger of being subjected to torture or even summary execution.

19. With regard to article 4, he complimented the State party on the amount of information provided in the report, but said that, since the questions raised were qualitative rather than quantitative, discussion of article 4 would be difficult without more information on the State party's definition of torture.

20. He said the Special Rapporteur had concluded, after his visit in 1999, that torture was used by law enforcement officers "on a widespread and systematic basis" (E/CN.4/2000/9/Add.2, para. 68). According to Amnesty International, too, police and gendarmes were still violating the 1997 Prohibition of Torture Act. A certain number of officers had been prosecuted, but two who had been sentenced to 10 and 6 years' imprisonment respectively had had their sentences reduced on appeal to 8 years and 1 year respectively. The question was, therefore, whether the 1997 Act was being implemented effectively.

21. He said that article 5 was an important element in the fight against torture, but it should not be discussed in global terms, since it raised several legal problems, each of which had a different solution. He wondered whether the provisions of the Penal Code mentioned in Cameroon's supplementary report of 1991 (CAT/C/5/Add.26, paras. 52-55) were still in force or whether they had been amended.

22. With regard to article 8, he wondered whether extradition was still subject to the discretion of the President of the Republic, as it had been under the 1964 legislation. If so, the State party would not be complying with article 8, under which it was obliged automatically to extradite anyone who was being prosecuted for torture, regardless of whether an extradition treaty existed or not.

23. With regard to article 9, he said it was his understanding that all the former French colonies had signed a mutual assistance agreement with France. In addition, he believed there was in existence an old treaty concluded by the French-speaking countries of Africa, the African and Malagasy Union, that might have been the basis for customary law in that regard. He would welcome the comments of the delegation.

24. He said that the independence of the judiciary did not appear to be discussed in part II of the report. Paragraphs 5 and 6 mentioned it in the context of certain constitutional changes, but also stated that the changes were not yet complete. Did that mean there was still no legislation on the independence of the judiciary?

25. Any legislation would have to deal with certain practical issues, such as the appointment and discipline of judges. Were judges appointed, and if so by what authorities? Or were they elected, and if so by whom? What role did the Supreme Council of Justice play in the selection and discipline of judges?

26. Mr. EL MASRY (Alternate Country Rapporteur) said Cameroon was in the throes of transition from an authoritarian regime to democracy but it was clear from its report that the concern with security and stability was one that overrode all other considerations, including some fundamental human rights.

27. With regard to article 10, for example, he said that, while Cameroon had complied with the Committee's request to establish a framework for human rights training for law enforcement personnel, including training on the prohibition of torture, the current recruitment freeze led superiors to retain, rather than dismiss, undisciplined subordinates. The Special Rapporteur spoke of a climate of impunity, in which no education and training programme could hope to succeed. In a letter to the Governor of Douala, the Archbishop of Douala had reported that, in their efforts to restore law and order in the face of organized crime and highway robbery, the authorities were relying on ex-convicts, prisoners and bandits, a policy that resulted in extrajudicial executions, arbitrary detentions and assaults and looting of private homes and vehicles. The Archbishop estimated that some 500 executions had taken place. Bodies were occasionally discovered in the Nkam waterway and a mass grave had recently been found containing 36 bodies. The Archbishop had blamed the Operational Command for scores of extrajudicial killings.

28. He said that, according to the Special Rapporteur, inhibitions such as the prohibition on torture were no obstacle to the priority objective of restoring public order. Unless the "anti-gang" units were dismantled and recruitment policy changed, education and training could have no effect.

29. It was equally important to educate the public about their rights, particularly the right to a defence. According to the Special Rapporteur, very few detainees had been brought before a procurator; almost none were aware of their rights and the majority did not know why they were in custody or by what authority (E/CN.4/2000/9/Add.2, para. 20). NGOs reported that those who had suffered torture or other ill-treatment, particularly during custody or pre-trial detention, did not know the procedure for lodging a complaint and were frightened to do so. He would welcome the delegation's comments on those issues.

30. With regard to article 11, he said the report argued that the State party could not meet its obligations owing to lack of financial resources. However, according to the Special Rapporteur, that was not the only reason for the poor conditions in prisons - they were also a result of deliberate policies and serious neglect. Most of the prisoners were not convicted and were held in conditions that endangered their health. Two new prisons, New Bell and Kondengui, built to hold 800 prisoners each, were currently holding 2,700 and 2,500 respectively. In New Bell prison, at least 30 prisoners had died during the first six months of 1999.

31. He said two welcome developments had taken place, however: ICRC would henceforth be allowed to visit places of detention in Cameroon on its own conditions; and the Ministry of Justice had instructed that pre-trial detention should be used only when absolutely necessary. Given that 80 per cent of the prison population was awaiting trial and that pre-trial detention sometimes lasted more than seven years, the latter instruction would solve the problem of overcrowding in prisons and he would welcome information concerning its implementation.

32. Article 11 also provided for systematic reviews of the rules, methods and practices relating to arrest or detention, with a view to preventing torture. It was clear from the reports of the Special Rapporteur and NGOs, however, that there were few rules to review. The "anti-gang" units, for example, were subject to no rules or authority: they dressed in plain clothes, were heavily armed and allegedly acted outside the law and with total impunity,

detaining, torturing and executing people suspected of being highway robbers. In some cases it was a matter of settling personal scores. He asked the delegation to inform the Committee on whose orders the gangs had been established, what their mandate was, who they were accountable to and what rules they operated under.

33. With regard to article 12, he asked whether the authorities had carried out prompt and impartial investigations of the specific cases referred to in the Special Rapporteur's report and the Archbishop of Douala's letter.

34. With regard to article 13, he said it was clear that the small number of complaints did not match the large number of cases of torture and ill-treatment. There was a climate of fear and many people were unaware of their right to complain and how to exercise it (E/CN.4/2000/9/Add.2, paras. 5, 12, 20 and 21). It was imperative for the authorities to investigate any case reported, promptly and impartially. He asked the delegation to inform the Committee what measures were being taken by the Government in that regard.

35. With regard to article 14, it was regrettable that the State party had not answered the request of the Committee, contained in its previous recommendations, to supply details on the number of successful compensation cases brought before the courts, and the average amount of Government liability.

36. Was it true that Cameroonian law did not provide for any compensation for damage suffered as a result of arbitrary detention? The only exception appeared to be article 55 (2) of the Code of Criminal Investigations, which stipulated that, where it was proved that a magistrate's fault caused pre-trial detention to be unduly prolonged, the magistrate himself should bear the cost of compensating the victim. Cameroon was under an obligation to bring its laws into conformity with the articles of the Convention, and that was one area that clearly needed changing.

37. Under article 15, the report stated that Cameroon's internal legislation lacked a specific provision concerning the inadmissibility of evidence obtained through the use of torture. It added that defendants could nevertheless benefit directly from article 15 of the Convention, since the Constitution of Cameroon affirmed the primacy of international law. Article 40 of the Constitution stipulated that "treaties duly ratified shall prevail over the laws, subject to the application of each agreement or treaty by the other party". That was unfortunately inadequate, and raised certain problems. Firstly, internal laws were more easily accessible to judges and lawyers, who might not be familiar with international treaties. Secondly, the phrasing of article 40 implied that the legislators had in mind bilateral treaties where implementation was dependent on reciprocity. Who would constitute "the other party" in the case of the Convention against Torture; would it be all the other States parties?

38. He would also like the delegation to clarify whether prior to Cameroon's accession to the Convention against Torture evidence obtained through torture had been admissible in court. For the sake of clarity and practicality, it was vital that Cameroon should have a specific provision in its internal legislation concerning the inadmissibility of such evidence in any proceedings, along the lines of the terms specified in article 15 of the Convention.

39. The CHAIRMAN invited members of the Committee to ask questions.

40. Ms. GAER was pleased to see such an experienced and diverse delegation and commended their report. She congratulated Cameroon on its cooperation with the International Criminal Tribunal, and particularly on the extradition of Bagosora and others involved in the Rwandan genocide to face trial before the Tribunal. She would appreciate information on the process the authorities had followed and their reasoning. What steps had led to the detention of those individuals, an action which could be considered exemplary. To what extent did the differing rules relating to the death penalty and the risk of torture influence the decision to extradite, rather than prosecute the individuals in Cameroon. How was the decision to send them to the Tribunal arrived at? Had the Government taken any steps to detain or prosecute other persons, whether nationals or foreigners, suspected of torture.

41. While the National Committee on Human Rights and Freedoms was a significant development and a welcome addition to the institutional structure protecting human rights in Cameroon, the Committee understood that it had so far received only six or seven complaints of torture. Did the Government intend to give the National Committee the authority to inspect places of detention, as recommended in paragraph 78 (d) of the report by the Special Rapporteur, to submit information to relevant prosecuting bodies in Cameroon, and to make that information public?

42. Could the delegation please clarify whether the Government endorsed the practice of appointing "cell heads" who maintained discipline in their own way, which often exacerbated the problem of inter-prisoner violence. If not, how did the Government act to prohibit or prevent such practices?

43. The United States Department of State country report cited credible accounts of sexual abuse and violence against juveniles by adult inmates. To what extent was the Government aware of such incidents? What was the Government doing to investigate and punish those cases? To what extent were juveniles held together with adult prisoners? The Committee also had information that women were being held in detention in cells together with men, which led to similar abuses. To what degree was that practised, and what measures would the Government take to address it? A statistical breakdown of the detainee population by race, ethnicity, age and gender, including information on whether those persons were refugees, immigrants or citizens of Cameroon, would be very helpful for the Committee.

44. The core document (HRI/CORE/1/Add/109) stated that the population was made up of over 200 ethnic groups, roughly divided into three major cultural groups. A disproportionate number of human rights violations had been reported by persons in the Anglophone populations in the north-west and south-west of the country. It had also been reported that slavery was being practised by the Fulani against the Kirdi. Nigerian immigrants and the indigenous pigmy population also both complained of discrimination and maltreatment. A statistical breakdown of detainees would help the Committee to judge the claims of discrimination, and whether certain ethnic groups were disproportionately represented in the criminal justice system. It would also be useful in assessing the Government's compliance with its obligations under the Convention.

45. The CHAIRMAN referred to paragraph 37 (a), a case involving three prison guards, who had beaten a prisoner under the rain and kept him in chains all night, causing his death. Without dwelling on whether the case should not have been treated as murder rather than "manslaughter", he asked whether one year's imprisonment was a standard penalty for officials beating a person to death? He also wondered whether the fine of 5 million CFA francs amounted to significant compensation. Prison officers were likely to be impecunious and therefore unable to pay such a fine; was the State therefore vicariously responsible for the conduct of its agents? If not, any such award would be a "dry judgement", with no satisfaction for the claimant.

46. He drew the attention of the Committee to paragraph 37 (c) of the report giving account of one of the most appalling cases he had ever read. It was laudable that the State party had brought it to the attention of the Committee themselves, but the details were shocking and demonstrated that the whole concept of law had clearly been destroyed. In the country's major city, Yaoundé, the deputy of the prosecutor, sent to a police station to check on the situation of persons held in custody, had first been refused cooperation by the police, then assaulted by them. The police superior had torn up the deputy's identification papers, ordered him to undress at gunpoint, ordered his beating and then had had him thrown into a cell. The police officers involved had been prosecuted and found guilty of a number of offences. It was, however, entirely unclear why the senior officer, Mr. Lagasso, who had actually ordered the beating and detention, had had his 10-year prison sentence reduced to 28 months, whereas the sentences of the officials who had merely been following his orders had not been reduced. It was not possible to imagine what mitigating factors had persuaded a court to reduce the former's sentence. Could the delegation please clarify that issue?

47. Several references had been made in the report to "administrative detention". Did that still exist as a legal concept? If so, how was it defined?

48. What was the judicial basis for the existence of the paramilitaries created to tackle organized crime? What were the limits of their power, and what protections were there for ordinary citizens?

49. Mr. NGOUBEYOU (Cameroon) said the delegation had noted all the questions of the Committee and would attempt to answer them at their next meeting.

The public part of the meeting rose at 11.45 a.m.